

AG Contract No : KR04-1815TRN
ADOT ECS File No.: JPA 04-138
Project No : HRF-MIA-0-811
Section: Adonis Avenue
TRACS No.: HF111 03D & 01C
Budget Source Item No.: N/A
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF MIAMI, ARIZONA

THIS AGREEMENT is entered into this date March 2nd, 2005, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") the TOWN OF MIAMI, ARIZONA, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-6993(g) to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State

2. The Town is empowered by Arizona Revised Statutes § 9-240 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$45,000 00; fiscal year 2005, to the Town for roadway **design** of Adonis Avenue. Such funds will be repaid to the State by withholding from the CENTRAL ARIZONA ASSOCIATION OF GOVERNMENTS (CAAG) federal funds and the obligation authority for federal funds in the amount of \$51,034 00 in fiscal year 2005.

4. State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$255,000 00; fiscal year 2006, to the Town for roadway **construction** of Adonis Avenue. Such funds will be repaid to the State by withholding from the CENTRAL ARIZONA ASSOCIATION OF GOVERNMENTS (CAAG) federal funds and the obligation authority for federal funds in the amount of \$289,193 00 in fiscal year 2006

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27394
Filed with the Secretary of State
Date Filed: 03/02/05

Janice K. Brewer
Secretary of State

By: Darryl D. Thorne

II. SCOPE OF WORK

1. The Town will:

a. Provide design plans, specifications and other such documents and services required for construction bidding and construction of the roadway reconstruction project of Adonis Avenue.

b. Be responsible for any contractor claims required for design of the project for extra compensation due to delays or whatever reason attributable to the Town.

c. Invoice the State in an amount not to exceed \$45,000 00 for the cost of design reimbursement.

d. Advertise for bids and award one or more construction contracts for the project. Administer contracts for the project and make all payments to the contractor(s). Be responsible for any contractor claims required to complete the project for extra compensation due to delays or whatever reason attributable to the Town. Comply with all applicable State laws, rules and regulations.

e. Invoice the State for thirty percent of \$255,000 00 for project construction costs in fiscal year 2006, at the start of construction.

f. Invoice the State for thirty percent of \$255,000 00 for project construction costs in fiscal year 2006, at the thirty percent and sixty percent project construction completion stages.

g. Upon satisfactory completion of construction, approve and accept the project on behalf of the Town hereto, provide for the maintenance, at its own expense. Provide the State with a letter documenting the notice of the approval and acceptance of the project.

h. Upon completion of construction, invoice the State for the remaining ten percent of \$255,000 00 in fiscal year 2006, after the Town, CAAG and the State (ADOT) representatives have completed final project review.

2. The State will:

a. Withhold from the CAAG federal funds and obligation authority of federal funds in an amount of \$51,034 00 in the fiscal year **2005** for **design** of Adonis Avenue.

b. Within (30) thirty-days after receipt of an invoice and a letter confirming the design has been completed, reimburse the Town \$45,000 00.

c. Withhold from CAAG federal funds and the obligation authority of federal funds in an amount of \$289,193 00 in fiscal year **2006** for roadway **construction** of Adonis Avenue.

d. Within (30) thirty-days after receipt of an invoice and a letter confirming the construction project has been awarded, advance the Town thirty percent of the HURF funds.

e. Within (30) thirty-days after receipt and approval of construction invoices at the thirty and sixty percent construction completion stages, advance the Town HURF funds in the amount of thirty percent at each invoiced stage for construction.

f. Within (30) thirty-days after receipt and approval of construction invoices, advance the Town HURF funds for the remaining ten percent of \$255,000 00 for the final roadway reconstruction project.

III. MISCELLANEOUS PROVISIONS

1 The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The Town shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The Town shall also require its contractors to name the State and ADOT as an additional indemnitee in the Town's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the Town and that to the extent permitted by law, the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. This terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon (30) thirty-days written notice to the other party. It is understood and agreed that, in the event the Town cancels this Agreement, the State shall in no way be obligated to maintain said project.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be canceled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424


Town of Miami
Town Manager
500 Sullivan Street
Miami, AZ 85539

10. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF MIAMI

STATE OF ARIZONA
Department of Transportation

By 

PAUL LICANO
Mayor

By 

DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST

By 

MARGIE LOPEZ
Town Clerk

RESOLUTION NO. 1001

A RESOLUTION OF THE COMMON COUNCIL OF THE TOWN OF MIAMI, ARIZONA, AUTHORIZING THE MIAMI TOWN COUNCIL TO ENTER INTO AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION, AG CONTRACT NUMBER KR04-1815TRN ADONIS AVE. HURF EXCHANGE PROGRAM.

WHEREAS the Town of Miami is authorized by law to enter into an Intergovernmental Agreements, and

WHEREAS Arizona Revised Statute Section 48-572 empowers the Town to enter into agreements for highway, street and road improvements, and

WHEREAS the State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$45,000.00; fiscal year 2005, to the Town for roadway **design** of Adonis Avenue. Such funds will be repaid to the State by withholding from the CENTRAL ARIZONA ASSOCIATION OF GOVERNMENTS (CAAG) federal funds and the obligation authority for federal funds in the amount of \$51,034.00 in fiscal year 2005.

WHEREAS the State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$255,000.00 fiscal year 2006, to the Town for roadway **construction** of Adonis Ave. Such funds will be repaid to the State by withholding the CENTRAL ARIZONA ASSOCIATION OF GOVERNMENTS (CAAG) federal funds and the obligation authority for federal funds in the amount of \$289,193.00 in fiscal year 2006

WHEREAS the Town desires to enter into an agreement between the State of Arizona and the Town for exchange of such funds.

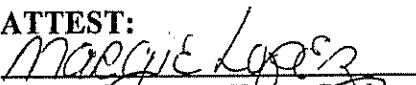
NOW THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Miami, Gila County, Arizona that the Town is hereby authorized to enter into an agreement with the Arizona Department of Transportation for transfer of HURF funds, and further that Robert J. Mawson, Town Manager and Paul Licano, Mayor are authorized to execute the contract and any amendments thereto on behalf of the Town of Miami.

PASSED AND ADOPTED by the Town Council of the Town of Miami, Arizona this

31ST day of January, 2005.


Paul P. Licano, Mayor

ATTEST:


Margie Lopez, Town Clerk

APPROVED AS TO FORM:


Anna C. Ortiz, Town Attorney

ATTORNEY APPROVAL FORM

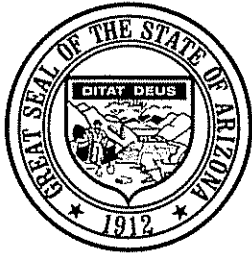
FOR THE

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the Town of Miami, an agreement among public agencies, which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954, and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 31ST day of January, 2005.



Attorney



**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1815TRN (**JPA 04-138**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED February 25th, 2005.

TERRY GODDARD
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

JTM:dgr
Attachment
892778